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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Zachariah Cobrinik

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EXAMINER

HAVAN, THU THAO

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

04/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/823,353

Applicant(s)

COBRINIK ET AL.

Examiner

Thu Thao Havan

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 50-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 50-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claims 1-13 and 50-60 are pending. This action is in response to the remarks received February 16, 2007.

Response to Arguments

The rejection of claims 1-13 and 50-60 under 35 U.S.C. 103(a) as being unpatentable by Kiron et al. (US 2003/0074293) and Groveman et al. (US 7,103,569)) is maintained.

Upon a closer examination, Applicant's arguments filed February 16, 2007 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant alleges that the prior art made of record fails to teach allocating the collected demand. The examiner disagrees with applicant's representative since Kiron teaches allocating the collected demand (para. 0021-0037 and 0046). Kiron discloses asset allocation for the customers. He discloses allocating portfolio value to a fixed

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number of shares over a predetermined period of time comprised by a real time open-ended financial product.

In addition, Applicant alleges that the prior art made of record fails to teach collecting demand for collared option hedge product amongst at least some of the plurality of potential customers. The examiner disagrees with applicant's representative since Groveman teaches collecting demand for collared option hedge product amongst at least some of the plurality of potential customers when he discloses the step of determining the best candidates against which puts or calls can be sold (col. 3, lines 31-67; fig. 2).

Groveman discloses accounts of individuals are reoptimized or swap when there is a satisfied point in the risk threshold. This minimizes the risk factor and constructing a better portfolio for the individuals as a group.

With regards to the claims rejected as taught by Kiron and Groveman, the examiner would like to point out that the reference teaches the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Kiron and Groveman taught the claimed limitations.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims **1-13** and **50-60** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiron et al. (US 2003/0074293) in view of Groveman et al. (US 7,103,569).

Re claims **1, 6**, and **11-13**, Kiron teaches a method operable on a computer for establishing a derivative financial product (para. 0026: Kiron discloses list derivatives on the securitized open end funds), comprising the steps of:

storing on computer information defining a collared option hedge product for a selected stock (para. 0063 ; Kiron discloses an index of securitized funds, as well as linked derivative securities including puts and calls, futures, caps and floors, total return swaps, collars, etc);

allocating the collected demand for collared option hedge product amongst a plurality of customers (para. 0021-0037 and 0046; Kiron allocating portfolio value to a fixed number of shares over a predetermined period of time comprised by a real time open ended financial product); and

storing the allocated demand on computer (para. 0041 and 0043; Kiron discloses an electronic database (a "master database") of extensive statistical information stored in a computer).

However, Kiron does not explicitly teach collecting demand for collared option hedge product amongst at least some of the plurality of potential customers. On the other hand, Groveman discloses collecting demand for collared option hedge product amongst at least some of the plurality of potential customers when he discloses the step of determining the best candidates against which puts or calls can be sold (col. 3, lines 31-67; fig. 2). Groveman discloses the tracking basket includes a portfolio or group of equities (i.e.

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collecting demand as claimed) which are selected based upon prescribed characteristics relative to the chosen benchmark or underlying index. The components of the tracking basket must be contained in the benchmark index or indices. He discloses the steps of enhancing the risk/reward profile of investing in the broader equity market or a particular sector of the market and offers the potential for profit in both rising and falling markets. Thus, it would have been obvious to one of ordinary skill in the art to collect demand for collared option hedge product amongst at least some of the plurality of potential customers when determining the best candidates in relation to options trading including collars as discloses in Groveman.

Re claims 2 and 7, Groveman teaches product features including a put option strike price, a call option strike price, an active time period and a maximum quantity of stock accommodated by product (fig. 1). Groveman discloses all puts sold the sum of the puts' strike price times its quantity times and the ordinary contract multiplier for an options contract. The strike prices that comprise the basket hedge is preferably made equal to the notional value of the tracking basket.

Re claims 3 and 8, Groveman teaches demand includes a quantity of stock for investing in collared option hedge product (col. 3, lines 31-39). Groveman discloses a tracking basket of equities is selected using optimization techniques to ensure that the selected stocks (both identity and quantity) satisfy prescribed criterias.

Re claims 4, 9, 52, and 56, Kiron teaches if the demand for collared option hedge product exceeds the maximum quantity of stock accommodated by product, allocating the

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availability of the collared option hedge product in accordance with a predetermined plan (para. 0021-0037 and 0046).

Re claims **5, 10, 53, and 57**, Groveman teaches predetermined plan includes diminishing the requested quantity of stock participation in the collared option hedge product for each of plurality of customers by a percentage equal to the percentage by which total demand exceeds the maximum quantity of stock allocated for the collared option hedge product (col. 4, lines 35-48).

Re claims **50, 54, and 58-60**, Kiron and Groveman teach a method as claimed in claims 1-2, 6-7, and 11-13. Therefore the rationale applied in the rejection of claims 1-2, 6-7, and 11-13 applies herein.

Re claim **51 and 55**, Kiron teaches storing on computer for each of plurality of collared option hedge products a close date for allocating demand to product and closing, upon the occurrence of a close date, access to a collared option hedge product (para. 0041 and 0043). Kiron discloses an electronic database (a "master database") of extensive statistical information stored in a computer.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached during her flexitime schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll free).

TTH
4/26/07



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